

ORDINANCE NO. 2142

AN ORDINANCE REPEALING ORDINANCE NO. 2118 ITS ENTIRETY AND PROVIDING FOR CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF GARDNER, KANSAS, UNDER THE AUTHORITY GRANTED BY THE GARDNER, KANSAS, ZONING ORDINANCE.

WHEREAS: having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under the authority of and subject to the provisions of the Gardner, Kansas, Zoning Ordinance, and

WHEREAS: this area lies within the Airport Interest Area, and pursuant to K.S.A. 3-307e, the rezoning must have the approval of the Board of County Commissioners of Johnson County, Kansas.

WHEREAS: the Board of County Commissioners of Johnson County, Kansas on December 16, 2004 adopted Resolution 104-04 in regards to Ordinance 2118 and City Application No. Z-04-06 and approved rezoning from City "M-1," Restricted Industrial District, and City "M-P", Mobile Home Park District, to "CP-2", Planned General Business District, and approved the related preliminary development plan for approximately 32.46 acres of land located southwest of the intersection of Santa Fe Street and Cedar Niles Road in Section 30, Township 14, Range 23, Johnson County, Kansas with the exception, however, that the approval of the rezoning and preliminary development plan is limited to that of the Wal-Mart Building and appurtenant improvements association with the Building (e.g. parking lot, drainage, etc.), and the two (2) pad site most westerly located (Proposed Lots 2 and 3), but that the two (2) pad site most easterly located, plus the proposed gasoline station area (Proposed Lots 4 and 5, and the Proposed Lease Lot), are hereby denied based upon the record of the proceedings, and that any attempt to reinstate Proposed Lots 4 and 5 and the Proposed Lease Lot into the rezoning and development plan shall be considered a new application which shall be subject to and require the separate consideration and approval of the Board of County Commissioners; therefore

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS:

SECTION ONE: Ordinance No. 2118 is hereby repealed in its entirety.

SECTION TWO: The following described property shall hereafter have a zoning classification of CP-2 "(Planned General Business District), subject to the following stipulations:

- a. The development shall be in accordance with Exhibit "A" (Site Plan) and Exhibit "B" (Building Elevations) which are filed in the office of the Planning Commission Secretary at City Hall and which are incorporated by reference as if set out in full herein. In addition, the development shall comply with all regulations and standards of the City of Gardner unless specifically exempted by the Governing Body.
- b. The development shall be limited to 225,000 square feet of building area.

- c. Prior to the issuance of a building permit, the property shall be final platted and the City's required Excise Tax paid.
- d. The location and geometrics of all driveways, public streets, and parking areas are subject to review and approval by Community Development Department staff.
- e. Substantial changes to the approved preliminary development plan shall require the submittal of a limited traffic study with the scope-of-work to be determined by Community Development Department staff for the analysis of nearby intersections.
- f. Prior to the issuance of building permits, the Planning Commission shall approve a final development plan for this subject property.
- g. Concurrent with construction of any improvements on the site, and prior to the issuance of any form of Certificate of Occupancy, the developer shall construct the public street and storm sewer improvements, subject to review and approval by the Public Works and Community Development staff.
- h. The parking lot design shall utilize ninety-degree parking spaces.
- i. Concurrent with construction of any improvements on the site, and prior to the issuance of any form of Certificate of Occupancy, the developer shall construct the following traffic improvements:
 - 1. Dual westbound left-turn lanes to U.S. 56 Highway at Cedar Niles Road.
 - 2. Dual northbound right-turn lanes on Cedar Niles Road at U.S. 56 Highway.
 - 3. Two southbound receiving lanes on Cedar Niles Road.
 - 4. One combined left turn and straight through lane, and an inside grass median area to be utilized for a future northbound left-turn only lane on Cedar Niles Road.
 - 5. The appropriate infrastructure and underground conduit for a future traffic signal at the Cedar Niles Road and Santa Fe Street intersection.
 - 6. Santa Fe Street to a three-lane profile along the property frontage.

CASE NO. Z-04-06

Rezoning from M-1 (Restricted Industrial District) and M-P (Mobile Home Park District) to CP-2 (Planned General Business District)

Legal Description:

CP-2 ZONING

All of Lots 2 and 3, GARDNER RETAIL PLAZA, and all that part of Lot 1, GARDNER RETAIL PLAZA, a subdivision of record in the City of Gardner, Johnson County, Kansas, more particularly described as follows; beginning at the southwest corner of said Lot 1; thence North 01°53'48" West, with the west line of said Lot 1, a distance of 1498.22 feet to the southwest corner of Lot 2; thence North 88°06'12" East, with the south line of said Lot 2, a distance of 145.72 feet to the southeast corner of said Lot 2; thence with the east line of said Lot 2, on a curve to the right having a radius of 197.00 feet, a central angle of 12°17'17", with an initial tangent bearing of North 26°18'24" East, an arc distance of 42.25 feet to a point of reverse curvature; thence continuing with the east line of said Lot 2 on a curve to the left having a radius of 170.00 feet, a central angle of 40°34'54", an arc distance of 120.41 feet; thence continuing with the east line of said Lot 2, North 01°59'14" West, a distance of 163.19 feet to the northeast corner of said Lot 2, said point being on the south right-of-way of 175th Street; thence North 88°00'46" East, with the south right-of-way of 175th Street, a distance of 60.00 feet to the northwest corner of Lot 3; thence South 01°59'14" East, with the west line of said Lot 3, a distance of 163.19 feet to a point of curvature; thence continuing with the west line of said Lot 3 on a curve to the right having a radius of 230.00 feet, a central angle of 24°58'00", an arc distance of 100.22 feet to the southwest corner of said Lot 3; thence North 88°06'12" East, with the south line of said Lot 3, a distance of 114.46 feet to the southeast corner of said Lot 3; thence North 01°53'48" West, with the east line of said Lot 3, a distance of 260.45 feet to the northeast corner of said Lot 3, said point being on the south right-of-way of 175th Street; thence North 88°00'46" East, with the south right-of-way of 175th Street, a distance of 208.82 feet to the northwest corner of Lot 4, GARDNER RETAIL PLAZA; thence South 01°53'48" East, with the west line of said Lot 4, a distance of 382.92 feet to the southwest corner of said Lot 4; thence North 88°06'12" East, with the

south line of said Lot 4 and the south line of Lot 5, GARDNER RETAIL PLAZA, a distance of 367.84 feet to the southeast corner of said Lot 5; thence North 57°41'35" East, a distance of 146.74 feet to a point on the east line of said Lot 1, and the west right-of-way of Cedar Niles Road; thence South 02°17'13" East, with the east line of said Lot 1, and the west right-of-way of Cedar Niles Road, a distance of 576.29 feet to the southeast corner of said Lot 1, said point being on the westerly right-of-way of Interstate 35; thence with the south line of said Lot 1 and the westerly right-of-way of Interstate 35 on a curve to the left having a radius of 11609.16 feet, a central angle of 05°16'55", with an initial tangent bearing of South 50°38'53" West, an arc distance of 1070.21 feet; thence continuing with the south line of said Lot 1, and the westerly right-of-way of interstate 35, South 45°17'32" West, a distance of 343.60 feet to the point of beginning. The above described tract contains 1236313 square feet, or 28.38 acres.

SECTION THREE: The following described property shall remain with the zoning classification of M-1 (Restricted Industrial District) .

Legal Description:

M-1 ZONING

All of Lots 4 and 5, GARDNER RETAIL PLAZA, and all that part of Lot 1, GARDNER RETAIL PLAZA, a subdivision of record in the City of Gardner, Johnson County, Kansas, more particularly described as follows: beginning at the northeast corner of said Lot 1, thence South 02°21'33" East, with the east line of said Lot 1, and the west right-of-way of Cedar Niles Road, a distance of 30.35 feet; thence continuing with the east line of said Lot 1, and the west right-of-way of Cedar Niles Road, South 07°57'44" East, a distance of 67.33 feet; thence continuing with the east line of said Lot 1 and the west right-of-way of Cedar Niles Road, South 02°17'13" East, a distance of 139.46 feet; thence South 57°41'35" West, and no longer with the east line of said Lot 1 and the west right-of-way of Cedar Niles Road, a distance of 146.74 feet to the southeast corner of said Lot 5; thence South 88°06'12" West, with the south line of Lots 5 and 4, a distance of 367.84 feet to the southwest corner of said Lot 4; thence North 01°53'48" West, with the west line of said Lot 4, a distance of 382.92 feet to the northwest corner of said Lot 4, said point being in the south right-of-way of 175th Street; thence North 88°00'46" East, with the south right-of-way of 175th street, a distance of 122.09 feet; thence South 80°41'36" East, continuing with the south right-of-way of 175th Street, a distance of 371.07 feet to the point of beginning. The above described tract contains 170360 square feet, or 3.91 acres.

SECTION FOUR: That upon the taking effect of this Ordinance, the above zoning changes shall be incorporated and shown on the Zoning District Map previously adopted by reference, and said Zoning District Map is hereby reincorporated as a part of the Zoning Ordinance as amended.

SECTION FIVE: That this Ordinance shall take effect and be in force from and after its adoption by the City Council and publication in the official City Newspaper.

PASSED and APPROVED this 7th day of March, 2005.

Carol Lehman, Mayor

ATTEST:

Gwen Scott, City Clerk
(SEAL)